

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

**PROCEDURES GOVERNING IN FORMA PAUPERIS
PAYMENTS FOR FILING FEES BY INCARCERATED INDIVIDUALS**

Amendments in April 1996 to 28 U.S.C. § 1915 require an inmate to pay the full filing fee when bringing a civil action or filing an appeal in forma pauperis. If, however, insufficient funds exist in the inmate's account:

1. When filed with the court, all complaints or petitions by incarcerated persons should be accompanied by:

- a. a motion to proceed in forma pauperis;
- b. a financial affidavit (USDCNH 15 or equivalent);
- c. a Certificate of Custodial Institution (see USDCNH-14 attached) with a copy, certified by an authorized official of the institution, of the applicant's trust account statement for the prior six-month period.

2. Should in forma pauperis status be granted, the court will set an initial partial filing fee in the amount of 20% of the greater of (a) the average monthly (for the prior six months) deposits to the inmate's account; or (2) the average monthly balance in the inmate's account for the prior six-month period.

3. The court will issue an order:

- a. setting the amount of the initial partial filing fee;
- b. setting the date by which the inmate must submit a Prisoner Consent Form (twenty-one days from date of order) indicating whether the inmate (1) consents

to incur the cost of the filing fee and proceed with the case, or (2) does not consent to incur the fee and agrees to a dismissal of the action without prejudice;

c. ordering subsequent monthly payments of 20% of the preceding month's income, whenever the inmate's account exceeds \$10.

4. Should the inmate return the Prisoner Consent Form and indicates consent to pay the filing fee and to have the monies withdrawn from their inmate account until paid in full, the court will forward a cover letter to the appropriate inmate accounts office outlining the inmate's payment obligation and will attach a copy of both the court's order setting forth the payment obligation and the Prisoner Consent Form signed by the inmate. In that instance, inmate accounts should disburse the initial filing fee in the ordinary course (and any subsequent filing fees pursuant to the court order) without requiring any further inmate slip authorizing the disbursement from the inmate's account. Should the inmate fail to timely return the Prisoner Consent Form or return that Form and indicate non-consent to pay the filing fee, the case will be dismissed without prejudice.

5. Once the initial partial filing fee is paid, it is the responsibility of the institution to automatically withdraw the subsequent monthly payments (20% of the preceding month's income, whenever the inmate's account exceeds \$10) until the fee is paid in full.

Any check sent to the court shall be accompanied by a transmittal memo clearly indicating the case number and name of inmate.

If the institution has multiple inmate litigants who have been assessed filing fees, the institution may issue one check, provided that it is accompanied by a transmittal memo indicating the case number and name of each inmate along with the amount included for each inmate so that the court may properly post those amounts to the inmate's court account.

The check will be sent to the Clerk of Court monthly by the 10th of the following month.

6. Both the court and the institution shall carefully monitor payments so that collection may be terminated when full payment is made.

7. If an inmate who is making monthly payments is released from custody or transferred to another institution, the original institution shall notify the court when the inmate account is closed and shall advise the court of a forwarding address of the inmate.

Effective: October 12, 2010

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